

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 5559  
OFFERED BY MR. LUTTRELL OF TEXAS**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Protecting Veterans  
3 Claim Options Act”.

**4 SEC. 2. CERTAIN RULES OF EVIDENCE IN CERTAIN CLAIMS  
5 UNDER LAWS ADMINISTERED BY THE SEC-  
6 RETARY OF VETERANS AFFAIRS.**

7 (a) EVIDENCE IN SUPPLEMENTAL CLAIMS.—

8 (1) IN GENERAL.—Subsection (a) of section  
9 5108 of title 38, United States Code, is amended to  
10 read as follows:

11 “(a) IN GENERAL.—(1)(A) The Secretary shall re-  
12 adjudicate a claim if the claimant presents new evidence  
13 with respect to a supplemental claim before the date that  
14 is one year after the date on which the agency of original  
15 jurisdiction issues a decision with respect to such claim.

16 “(B) In readjudicating a claim under subparagraph  
17 (A), the Secretary shall consider all of the evidence of  
18 record.

1 “(C) If the Secretary declines to readjudicate a claim  
2 under subparagraph (A) because the Secretary finds the  
3 claimant has not presented new evidence with respect to  
4 the supplemental claim, the claimant may take an action  
5 under section 5104C(a)(1)(A) or (C) of this title to re-  
6 quest a review of the finding that the supplemental claim  
7 did not include new evidence.

8 “(D) Nothing in this paragraph shall preclude the  
9 Secretary from reviewing a claim after the claimant takes  
10 an action described in subparagraph (C).

11 “(2)(A) The Secretary shall readjudicate a claim if  
12 the claimant presents new and relevant evidence with re-  
13 spect to a supplemental claim—

14 “(i) more than one year after the date of the  
15 decision of the agency of original jurisdiction with  
16 respect to such claim;

17 “(ii) after the Board of Veterans’ Appeals  
18 issues a decision with respect to such claim; or

19 “(iii) after the Court of Appeals for Veterans  
20 Claims issues a decision with respect to such claim.

21 “(B) In readjudicating a claim under subparagraph  
22 (A), the Secretary shall consider all of the evidence of  
23 record.”.

24 (2) CONFORMING AMENDMENTS.—

1 (A) OPTIONS FOLLOWING DECISION BY  
2 AGENCY OF ORIGINAL JURISDICTION.—Section  
3 5104C of such title is amended—

4 (i) in subsection (a)(1)(B), by striking  
5 “section 5108” and inserting “section  
6 5108(a)(1)”; and

7 (ii) in subsection (b), by striking “sec-  
8 tion 5108” and inserting “section  
9 5108(a)(2)”.

10 (B) EFFECTIVE DATES OF AWARDS.—Sec-  
11 tion 5110(a)(2) of such title is amended—

12 (i) in subparagraph (B), by striking  
13 “section 5108” and inserting “section  
14 5108(a)(1)”; and

15 (ii) in subparagraphs (D) and (E), by  
16 striking “section 5108” both places it ap-  
17 pears and inserting “section 5108(a)(2)”.

18 (C) JURISDICTION OF THE BOARD OF VET-  
19 ERANS’ APPEALS.—Section 7104(b) of such  
20 title is amended by striking “section 5108” and  
21 inserting “section 5108(a)(2)”.

22 (3) RETROACTIVITY.—The amendments made  
23 by this subsection shall apply to supplemental claims  
24 filed on or after August 23, 2017.

1           (4) REGULATIONS.—The Secretary of Veterans  
2       Affairs shall prescribe regulations to carry out the  
3       amendments made by this subsection not later than  
4       180 days after the date of the enactment of this Act.

5           (b) EVIDENCE IN CASES REMANDED BY THE COURT  
6       OF APPEALS FOR VETERANS CLAIMS.—Section 7113 of  
7       title 38, United States Code, is amended by adding at the  
8       end the following new subsection:

9           “(d) CASES REMANDED BY THE COURT OF APPEALS  
10      FOR VETERANS CLAIMS.—(1) Except as provided in para-  
11      graph (2), for cases remanded to the Board by the Court  
12      of Appeals for Veterans Claims, the evidentiary record be-  
13      fore the Board shall be limited to the evidence previously  
14      considered by the Board in such case.

15           “(2) The evidentiary record before the Board for  
16      cases described in paragraph (1) shall include evidence  
17      submitted by the appellant and his or her representative,  
18      if any, within 90 days following such remand, which the  
19      Board shall consider in the first instance.”.

